

**House Study Bill 117 - Introduced**

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
LABOR BILL BY CHAIRPERSON  
HORBACH)

**A BILL FOR**

1 An Act relating to public employee collective bargaining  
2 agreements and including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 20.3, Code 2011, is amended by adding the  
2 following new subsections:

3 NEW SUBSECTION. 1A. "*Bargaining unit*" means only those  
4 employees in a particular class of employees who have not  
5 declared themselves a free agent employee.

6 NEW SUBSECTION. 4A. "*Free agent employee*" means a public  
7 employee who has signed a release declaring that the employee  
8 rejects representation by an employee organization and that the  
9 employee understands that signing the release waives any claim  
10 or right to representation by that employee organization.

11 Sec. 2. Section 20.6, subsection 3, Code 2011, is amended  
12 to read as follows:

13 3. Establish minimum qualifications for arbitrators and  
14 mediators, establish procedures for appointing, maintaining,  
15 and removing from a list persons representative of the public  
16 to be available to serve as arbitrators and mediators, and  
17 establish compensation rates for arbitrators and mediators.  
18 However, the board shall not establish compensation rates for  
19 private mediators. The board may charge the parties involved  
20 in an impasse a reasonable fee to cover any cost to the board  
21 associated with the duties provided in this subsection,  
22 including the training of arbitrators and mediators.

23 Sec. 3. Section 20.8, Code 2011, is amended by adding the  
24 following new subsection:

25 NEW SUBSECTION. 5. Declare themselves a free agent  
26 employee.

27 Sec. 4. Section 20.9, Code 2011, is amended to read as  
28 follows:

29 **20.9 Scope of negotiations.**

30 1. The public employer and the employee organization  
31 shall meet at reasonable times, including meetings reasonably  
32 in advance of the public employer's budget-making process,  
33 to negotiate in good faith with respect to wages, hours,  
34 vacations, ~~insurance~~, holidays, leaves of absence, shift  
35 differentials, overtime compensation, supplemental pay,

1 seniority, transfer procedures, job classifications, health and  
2 safety matters, evaluation procedures, ~~procedures for staff~~  
3 ~~reduction~~, in-service training, and other matters mutually  
4 agreed upon. Negotiations shall also include terms authorizing  
5 dues checkoff for members of the employee organization and  
6 grievance procedures for resolving any questions arising under  
7 the agreement, which shall be embodied in a written agreement  
8 and signed by the parties. If an agreement provides for dues  
9 checkoff, a member's dues may be checked off only upon the  
10 member's written request and the member may terminate the dues  
11 checkoff at any time by giving thirty days' written notice.  
12 Such obligation to negotiate in good faith does not compel  
13 either party to agree to a proposal or make a concession.

14 2. Nothing in this section shall diminish the authority  
15 and power of the department of administrative services, board  
16 of regents' merit system, Iowa public broadcasting board's  
17 merit system, or any civil service commission established by  
18 constitutional provision, statute, charter, or special act to  
19 recruit employees; prepare, conduct, and grade examinations;  
20 or rate candidates in order of their relative scores for  
21 certification for appointment or promotion or for other matters  
22 of classification, reclassification, or appeal rights in the  
23 classified service of the public employer served.

24 3. ~~All retirement systems~~ The following subjects shall be  
25 excluded from the scope of negotiations:

26 a. All retirement systems.

27 b. The terms and source of health insurance or any other  
28 insurance.

29 c. Any requirement that a public employer pay more than  
30 seventy percent of the cost of a health insurance plan  
31 established pursuant to chapter 509A which the public employer  
32 provides for a public employee and other persons covered  
33 through the public employee.

34 d. Restrictions or limitations on outsourcing.

35 e. Any restriction on the right of a public employer to

1 consider any factor which the employer may lawfully consider  
2 in a layoff.

3 Sec. 5. Section 20.20, Code 2011, is amended to read as  
4 follows:

5 **20.20 Mediation.**

6 1. In the absence of an impasse agreement negotiated  
7 pursuant to section 20.19 or the failure of either party  
8 to utilize its procedures, one hundred twenty days prior  
9 to the certified budget submission date, or one hundred  
10 twenty days prior to May 31 of the year when the collective  
11 bargaining agreement is to become effective if public employees  
12 represented by the employee organization are teachers licensed  
13 under chapter 272 and the public employer is a school district  
14 or area education agency, the board shall, upon the request of  
15 either party, appoint an impartial and disinterested person to  
16 act as mediator.

17 2. If the public employer is a community college, and in the  
18 absence of an impasse agreement negotiated pursuant to section  
19 20.19 or the failure of either party to utilize its procedures,  
20 one hundred twenty days prior to May 31 of the year when the  
21 collective bargaining agreement is to become effective, the  
22 board, upon the request of either party, shall appoint an  
23 impartial and disinterested person to act as mediator.

24 3. If the public employer is not subject to the budget  
25 certification requirements of section 24.17 or other applicable  
26 sections and in the absence of an impasse agreement negotiated  
27 pursuant to section 20.19, or the failure of either party to  
28 utilize its procedures, one hundred twenty days prior to the  
29 date the next fiscal or budget year of the public employer  
30 commences, the board, upon the request of either party, shall  
31 appoint an impartial and disinterested person to act as a  
32 mediator.

33 4. It shall be the function of the mediator to bring the  
34 parties together to effectuate a settlement of the dispute, but  
35 the mediator ~~may~~ shall not compel the parties to agree.

1     5. The board shall, whenever possible, appoint a mediator  
2 from within the board's staff, from the federal mediation and  
3 conciliation service, or as otherwise provided by federal law.  
4 If such an appointment is not possible, the board shall appoint  
5 a private mediator pursuant to section 20.6, subsection 3. All  
6 costs associated with the services of a private mediator shall  
7 be shared equally by the parties. The parties may agree to a  
8 maximum compensation rate for a private mediator. The parties  
9 may agree to a maximum number of hours for the length of the  
10 mediation.

11     Sec. 6. Section 20.22, subsections 3, 6, 7, 9, 10, and 11,  
12 Code 2011, are amended to read as follows:

13     3. The submission of the impasse items to the arbitrator  
14 shall be limited to those items upon which the parties have not  
15 reached agreement. ~~With~~ However, with respect to each such  
16 item, the arbitrator's award shall not be restricted to the  
17 final offers on each impasse item submitted by the parties to  
18 the arbitrator.

19     6. From the time the board notifies the arbitrator of the  
20 selection of the arbitrator until such time as the arbitrator's  
21 ~~selection~~ decision on each impasse item is made, there shall be  
22 no discussion concerning recommendations for settlement of the  
23 dispute by the arbitrator with parties other than those who are  
24 direct parties to the dispute.

25     7. The arbitrator shall consider, in addition to any other  
26 relevant factors, the following factors:

27     ~~a. Past collective bargaining contracts between the parties~~  
28 ~~including the bargaining that led up to such contracts.~~

29     ~~b.~~ a. Comparison of wages, benefits, hours, and conditions  
30 of employment of the involved public employees with those  
31 of other public employees, including public employees not  
32 represented by an employee organization, and with private  
33 sector employees doing comparable work, giving consideration to  
34 factors peculiar to the area and the classifications involved.  
35 In considering this comparison, the arbitrator shall strive to

1 maintain parity in wages, benefits, hours, and conditions of  
2 employment between the public sector and the private sector for  
3 comparable types of work.

4 ~~e.~~ b. The interests and welfare of the public, the ability  
5 of the public employer to finance economic adjustments, and the  
6 effect of such adjustments on the normal standard of services.

7 ~~d.~~ ~~The power of the public employer to levy taxes and~~  
8 ~~appropriate funds for the conduct of its operations.~~

9 c. Efficiency of the public employer in its ability to carry  
10 out any of its functions.

11 d. An increase in any tax.

12 e. A decrease in the provision by the public employer of any  
13 service.

14 9. The arbitrator shall ~~select~~ render a decision within  
15 fifteen days after the hearing ~~the most reasonable offer, in~~  
16 ~~the arbitrator's judgment, of the final offers on~~ consisting  
17 of final terms for each impasse item submitted by the parties.  
18 The arbitrator may select one of the final offers on each  
19 impasse item submitted by the parties or the arbitrator may  
20 make an award which does not go beyond the terms of a final  
21 offer for any impasse item submitted by the parties.

22 10. The ~~selections~~ decisions by the arbitrator and  
23 items agreed upon by the public employer and the employee  
24 organization, shall be deemed to be the collective bargaining  
25 agreement between the parties.

26 11. The ~~determination~~ decisions of the arbitrator shall be  
27 final and binding subject to the provisions of section 20.17,  
28 subsection 6 and section 20.22A. The arbitrator shall give  
29 written explanation for the arbitrator's ~~selections~~ decision  
30 regarding the final terms for each impasse item and inform the  
31 parties of the decision.

32 Sec. 7. NEW SECTION. **20.22A Ratification of state employee**  
33 **agreements.**

34 1. Prior to a collective bargaining agreement entered into  
35 by an employee organization representing state employees,

1 pursuant to the decision of an arbitrator under section 20.22,  
2 becoming final and binding, the agreement must be ratified  
3 through the enactment of a bill which appropriates funds in  
4 an amount necessary to fund the agreement, subject to the  
5 provisions of section 20.17, subsection 6.

6 2. A bill ratifying a collective bargaining agreement  
7 and appropriating funds in an amount necessary to fund the  
8 agreement shall not be enacted if the terms of the agreement  
9 cannot be supported by the state budget without new taxation  
10 or without a decrease in the provision by the public employer  
11 of services.

12 3. The decisions of an arbitrator pursuant to section 20.22,  
13 subsections 11 and 12, provide notice to the general assembly  
14 of the final terms of the collective bargaining agreement.

15 4. The general assembly shall, within thirty days after  
16 the notification, consider a bill ratifying the collective  
17 bargaining agreement and appropriating funds in an amount  
18 necessary to fund the agreement. If the bill is enacted, the  
19 collective bargaining agreement becomes final and binding. The  
20 agreement does not become effective until the bill is enacted.

21 5. If the bill ratifying the collective bargaining  
22 agreement and appropriating funds in an amount necessary to  
23 fund the agreement fails to be approved by a constitutional  
24 majority in either the senate or the house of representatives,  
25 the secretary of the senate or the chief clerk of the house, as  
26 the case may be, shall, within seven days after the date the  
27 bill failed to be approved, transmit to the governor and the  
28 employee organization representing state employees covered by  
29 the proposed agreement information which the senate or house  
30 may direct by resolution regarding reasons why the bill was not  
31 approved.

32 6. If the governor vetoes a bill or the appropriation  
33 in a bill ratifying a collective bargaining agreement,  
34 or fails to approve a bill submitted to the governor for  
35 approval during or after the last three days of a session

1 of the general assembly, the governor shall, within seven  
2 days after the bill or appropriation is vetoed or the bill  
3 fails to be approved, transmit to the employee organization  
4 representing state employees covered by the proposed agreement  
5 information regarding reasons why the bill or appropriation  
6 was vetoed or the bill was not approved. The applicable  
7 public employer, employee organization, and any fact-finder,  
8 mediator, or arbitrator, shall, to the extent the reasons are  
9 consistent with this chapter, take into account the reasons  
10 for not enacting the bill or the appropriation in any further  
11 renegotiating of the collective bargaining agreement.

12 7. If a bill ratifying the collective bargaining agreement  
13 and appropriating funds in an amount necessary to fund the  
14 agreement fails to be enacted, the board, in consultation with  
15 the applicable public employer and employee organization,  
16 shall establish an expedited timetable for renegotiating the  
17 collective bargaining agreement, including time schedules for  
18 fact-finding and arbitration, if necessary.

19 Sec. 8. APPLICABILITY. This Act applies to collective  
20 bargaining agreements entered into on or after the effective  
21 date of this Act.

22 EXPLANATION

23 This bill relates to public employee collective bargaining  
24 agreements.

25 The bill provides that a public employee has the right  
26 to declare oneself a free agent employee, meaning a public  
27 employee who has signed a release declaring that the employee  
28 rejects representation by an employee organization and that  
29 the employee understands that signing the release waives any  
30 claim or right to representation by that organization. The  
31 bill specifies that for the purposes of collective bargaining,  
32 a bargaining unit only consists of employees in a particular  
33 class of employees who have not declared themselves free agent  
34 employees.

35 The bill excludes certain subjects from the scope of

1 negotiations for public employee collective bargaining  
2 agreements, including the terms and source of health insurance  
3 or any other insurance, any requirement that a public employer  
4 pay more than 70 percent of the cost of a health insurance  
5 plan established pursuant to Code chapter 509A which the  
6 public employer provides for a public employee and other  
7 persons covered through the public employee, restrictions or  
8 limitations on outsourcing, and any restriction on the right of  
9 a public employer to consider any factor which the employer may  
10 lawfully consider in a layoff.

11 The bill authorizes the public employment relations board  
12 to charge the parties involved in an impasse in negotiations  
13 for a collective bargaining agreement a reasonable fee to  
14 cover any cost to the board associated with duties relating  
15 to establishing minimum qualifications for arbitrators and  
16 mediators; establishing procedures for appointing, maintaining,  
17 and removing from a list persons representative of the  
18 public available to serve as arbitrators and mediators; and  
19 establishing compensation rates for arbitrators and mediators,  
20 including the training of arbitrators and mediators. The  
21 bill specifies that the board cannot establish compensation  
22 rates for private mediators. The bill requires the board to  
23 appoint a mediator for a public employee collective bargaining  
24 agreement from within the board's staff, from the federal  
25 mediation and conciliation service, or as otherwise provided  
26 by federal law whenever possible. If such an appointment  
27 is not possible, the board is required to appoint a private  
28 mediator. The bill specifies that all costs associated with  
29 the services of a private mediator will be shared equally by  
30 the parties. The bill provides that the parties may agree to  
31 a maximum compensation rate for a private mediator and to a  
32 maximum number of hours for the length of the mediation.

33 The bill provides that the final decision of an arbitrator  
34 for a public employee collective bargaining agreement is not  
35 limited to each party's final offer for each impasse item,

1 but that the final decision must not go beyond the terms of  
2 either party's final offer for each impasse item. The bill  
3 strikes the requirement of an arbitrator to consider past  
4 collective bargaining contracts between the parties including  
5 the bargaining that led up to such contracts and to consider  
6 the power of the public employer to levy taxes and appropriate  
7 funds for the conduct of its operations as factors when  
8 rendering a final decision. The bill adds additional factors  
9 which an arbitrator must consider, including a comparison of  
10 wages, benefits, hours, and conditions of employment of the  
11 involved public employees with those of public employees not  
12 represented by employment organizations and private-sector  
13 employees doing comparable work. The bill requires an  
14 arbitrator making that comparison to strive to maintain parity  
15 in wages, benefits, hours, and conditions of employment between  
16 the public sector and the private sector for comparable types  
17 of work. The bill also requires an arbitrator to consider  
18 as factors loss of efficiency by the public employer in its  
19 ability to carry out any of its functions, an increase in any  
20 tax, and a decrease in any service provided by the public  
21 employer.

22 The bill sets out a procedure for the ratification of  
23 collective bargaining agreements for state employees. Prior  
24 to an agreement becoming final and binding, the bill provides  
25 that an agreement entered into pursuant to the decision of an  
26 arbitrator under Code section 20.22 is subject to the enactment  
27 of a bill which ratifies the agreement and appropriates  
28 funds in an amount necessary to fund the agreement. The  
29 agreement remains subject to the provisions of Code section  
30 20.17(6) which makes an arbitrator's award invalid if its  
31 implementation is inconsistent with a statutory limitation  
32 relating to spending or would substantially impair or limit the  
33 performance of any statutory duty by the public employer. The  
34 bill provides that such a bill must not be enacted if the terms  
35 of the collective bargaining agreement cannot be supported by

1 the state budget without new taxation or without decreases in  
2 services provided by the state employer. The bill requires  
3 that the decision of and notification by an arbitrator of the  
4 final terms of a collective bargaining agreement pursuant to  
5 Code section 20.22(11) be served on the general assembly.

6 The bill directs the general assembly to consider a bill  
7 ratifying the collective bargaining agreement and appropriating  
8 funds in an amount necessary to fund the agreement within 30  
9 days of receiving notice of the terms of the agreement. The  
10 bill provides that if the bill regarding the agreement is  
11 enacted, the agreement becomes final and binding. The bill  
12 specifies that the agreement does not become effective until  
13 the bill regarding the agreement is enacted.

14 The bill provides that if the bill ratifying the collective  
15 bargaining agreement and appropriating funds in an amount  
16 necessary to fund the agreement fails to be approved by a  
17 constitutional majority in either the senate or the house of  
18 representatives, the secretary of the senate or the chief  
19 clerk of the house, as applicable, must transmit information  
20 which the senate or house may direct by resolution regarding  
21 reasons why the bill was not approved to the governor and the  
22 employee organization representing state employees covered by  
23 the proposed agreement within seven days after the bill fails  
24 to be approved. The bill directs the governor, if the governor  
25 vetoes the bill regarding the agreement or the appropriation  
26 therein, or fails to approve the bill at the end of a  
27 legislative session, to transmit to the employee organization  
28 representing state employees covered by the proposed agreement  
29 information regarding reasons why the bill or appropriation was  
30 vetoed or the bill was not approved within seven days after  
31 the bill or appropriation is vetoed or the bill fails to be  
32 approved. The bill directs the applicable public employer,  
33 employee organization, and any fact-finder, mediator, or  
34 arbitrator, to the extent the reasons are consistent with  
35 Code chapter 20, to take into account the reasons for not

1 enacting the bill or the appropriation therein for any further  
2 renegotiating of the collective bargaining agreement.

3     The bill directs the public employee relations board  
4 to establish, in consultation with the applicable public  
5 employer and employee organization, an expedited timetable for  
6 renegotiating the collective bargaining agreement, including  
7 time schedules for fact-finding and arbitration, if necessary,  
8 if the bill ratifying the collective bargaining agreement  
9 and appropriating funds in an amount necessary to fund the  
10 agreement fails to be enacted.

11     The bill applies to collective bargaining agreements entered  
12 into on or after the effective date of the bill.